

**BEFORE THE TALBOT COUNTY AGRICULTURAL RESOLUTION BOARD**

IN RE FOSTER FARM \* FINDINGS AND DECISION

(Right to Farm Complaints)

\* ZV-21-3156-FOS

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The Talbot County Agricultural Resolution Board (the “Board”) held a hearing on February 28, 2022 in the Talbot County Community Center at 10028 Ocean Gateway, Easton, Maryland to consider the matter of the Foster Farm, located at 4084 Smith Mill Rd., Trappe MD 21673. The hearing was continued until November 15, 2022, whereby the Board deliberated and issued its decision set forth herein.

Voting Board Members present for this hearing were Chairman Travis Hutchison, Lewis H. Smith, Jr., and Robert Greenlee. Non-voting Board Members present for the hearing were Shannon Dill (Talbot County Extension Agent) and Shawn Smith (Talbot County Soil Conservation District).

Also present were Mike Duell (Talbot County Chief Code Compliance Officer), Bill Schmidt (Talbot County Health Department, Office of Environmental Health), Duane Gottschalk (Talbot County Code Compliance Officer), Dwight Dotterer (Maryland Department of Agriculture, Nutrient Management Program), Howard Callahan (Maryland Department of Agriculture, Nutrient Management Program), Tom Phillips (State of Maryland chemist), and Brian Coblentz (Division Chief, Maryland Department of Environment Compliance Division).

**STATEMENT OF THE CASE**

This matter is brought forth under Talbot County’s Right to Farm Ordinance, Chapter 128. The purpose of the Right to Farm ordinance is “to protect the right to farm or engage in agricultural interests within Talbot County; to further the efficient regulation of land use in Talbot County; and to assist in the resolution of disputes between agricultural landowners and/or farmers and their neighbors by the establishment of the Talbot County Agricultural Resolution Board to resolve disputes concerning alleged agricultural nuisances.”

The agricultural property at issue is located at 4084 Smith Mill Rd., Trappe, MD. It is owned by Arthur L. Foster, Sr. The farm is 423.95 acres and is used for growing corn and other crops. Farm operations are primarily conducted by Mr. Foster’s son, Arthur L. Foster, Jr.

In 2021, Denali Water Solutions (“Denali”) began servicing the farm with biosolids and soil conditioners that are regulated by the Maryland Department of Agriculture. In the Fall of 2021, numerous residents of Talbot County, who reside near the Foster farm, filed complaints with the Talbot County Office of Planning and Zoning. The complaints stated that a strong odor, emanating from the Foster farm, was a severe nuisance to the area surrounding the farm. The

complainants stated, among other things, that the nuisance affected their health and ability to enjoy their own properties. There is no dispute that the strong smells coming from the farm were caused by the Denali soil conditioners that were both stockpiled and applied to the soil on the Foster farm.

Pursuant to the Right to Farm ordinance, Section 128-5(C), this Board “shall decide whether the particular agricultural practice does or does not conform to generally accepted agricultural practices. ...” “In addition, if the Board finds that a particular practice alleged in the complaint does not conform to generally accepted agricultural practices, it may specify and recommend alternative practices which do conform.”

This Board has identified two related issues that must be resolved. First, whether Denali soil conditioners that were stockpiled on the Foster Farm in 2021 conform to a generally accepted agricultural practice. Second, whether Denali soil conditioners that were applied to the soil on the Foster Farm in 2021 conform to a generally accepted agricultural practice.

### **SUMMARY OF TESTIMONY**

#### **1. County Investigation**

A joint investigation of the matter was conducted by Mike Duell, Talbot County Chief Code Enforcement Officer and Bill Schmidt, Licensed Environmental Health Specialist with the Talbot County Health Department, Office of Environmental Health (collectively hereinafter referred to as “County”). Mr. Duell and Mr. Schmidt prepared a Staff Report and Supplemental Staff Report, which were received by the Board and incorporated as testimony in this proceeding. The following is a summary of those reports relevant to this Board’s decision.

The County received many complaints about the Foster Farm beginning September 10, 2021. The County responded to the complaints and confirmed what Mr. Duell and Mr. Schmidt referred to as “strong, foul, offensive odors”, which they suspected originated from sludge like materials on the property.

The County investigation discovered that Denali products were used on the property and were likely the cause of the offensive odors. The County received information that the products were registered with the Maryland Department of Agriculture (“MDA”). Specifically, the following MDA registered products were applied on the Foster farm:

- Class A Sewage Sludge Bio Solids Soil Amendment Product. MDE issued a utilization permit to Ocean City for the treatment of sewage sludge as specified in MDE’s permit.
- DWS Mountairecake – Particles from poultry processing – Registered Soil Conditioner by MDA.
- DWS Sea Watch International – Particles out of wash-down water during processing claims- Registered Soil Conditioner by MDA.
- DWS Valley Protein Cake – Rendering wash & meat trimmings from poultry – Registered Soil Conditioner by -MDA.

During a site visit on September 28, 2021, Bill Schmidt detected a “very strong, foul, pungent odor.” He observed sludge material on the farm fields and stockpiling of sludge material on three concrete bunkers.

Between November 2021 through December 2021, Mr. Schmidt and Mr. Duell received and responded to numerous other complaints regarding the strong odor coming from the Foster Farm. Their visits confirmed the strong nature of the odor, which they described as “overpowering” and “nauseating”, among other similar descriptive terms.

On November 16, 2021, Bill Schmidt contacted Dwight Dotterer, of MDA Nutrient Management Program. Mr. Dotterer advised that Denali spread sludge on the farm and that the land was “turbo tilled” following the sludge spreading. The following day, Mr. Dotterer sent an email to Mr. Schmidt advising that all spreading of the material was finished on November 15, the material consisted of clam waste and Class A biosolids, and all material was spread using a turbo till, “which is classified as vertical tillage equipment and a recommended method of incorporation for soil health.” He further advised that the fields had wheat applied as a cover crop and that it was not an option to go over the fields again with deeper tillage as it would bury the cover crop seed. Mr. Dotterer was told by Nutrient Management specialist Howard Callahan that there would not be any more clam waste stored or spread due to the odor.

On November 20, 2021, Mike Duell visited the farm where he observed bunkers storing sludge material. He reported that the smell from the farm remained in the vehicle he was driving for a significant amount of time after he left the farm. During this visit, and other visits made by Mr. Duell and Mr. Schmidt, the County observed seepage coming from the stockpiled sludge.

On December 8, 2021, Mike Duell met with Chris Banks, a Denali Regional Operations Manager. They discussed the possibility of “discing” the soil to help alleviate the odor. Mr. Banks advised that discing the soil would require permission from MDA. On December 13, 2021, MDA authorized discing the field. On December 14, 2021, Mr. Dotterer also stated that Denali would no longer accept the “Sea Watch” clam waste, which was believed to be the primary culprit for the strong odor complaints.

On December 14, 2021, Bill Schmidt and Mike Duell met with Shawn Smith and Shannon Dill who are non-voting members of this Board. They both agreed that discing the field would help to reduce the odor. Later that day the County observed discing operations began on the farm.

On December 22, 2021, Mr. Schmidt contacted State Chemist Tom Phillips. Mr. Phillips confirmed that the three soil conditioner products used on the farm were registered by MDA. He stated that the Class A Sewage Sludge was exempt from the MDA registration process.

County visits to the site on December 23, 2021, and after, found that the odor had dissipated. Bill Schmidt learned from MDA that the registered Sea Watch product was likely the product that caused the strong offensive odor.

On January 14, 2022, the County interviewed Brian Baumgartner, Maryland Department of Environment (“MDE”) Compliance Inspector. Mr. Baumgartner confirmed that Denali has obtained a permit for deliveries of Ocean City Class A Sludge and that the sludge has undergone processes to eliminate pathogens and has been used successfully for many years as a cost effective fertilization treatment in the farming industry.

The County also interviewed Howard Callahan, a Nutrient Management specialist. Mr. Callahan visited the site and was advised by Denali that the Sea Watch registered material was likely the cause of the strong odor, which Denali would no longer use on the farm. Mr. Callahan observed seepage from the stockpiled material and advised Denali to contain it. Mr. Callahan is not aware of any regulation regarding additional storage of soil conditioners. He suggests deeper tillage of the material, within 24 hours of its application, to reduce the smell.

On February 23, 2022, the County met with Chris Banks, of Denali, and Arthur Foster Jr. Mr. Banks confirmed that he was confident the offensive smell was caused by the Sea Watch product. Further, in his experience, the material has previously been applied to the soil by discing, as opposed to the turbo till method that was used to apply the material on the Foster Farm.

As a solution to the odor problem, Denali and the Foster Farm have offered the following solutions:

- 1) The Sea Watch sludge will no longer be accepted at the Foster Farm or any other farm operated by Denali.
- 2) No organic nutrient sources (biosolids or industrial soil conditioners) will be land applied on the Foster Farm in 2022. Any additional nutrient needs for the farm will be in the form of commercial fertilizers only for 2022.
- 3) All biosolids and soil conditioners currently stored in the concrete bunkers at the farm will be hauled off site for utilization on other farms owned by Mr. Foster. The Farm mentioned was a farm Mr. Foster owns on Chapel Rd and Gannon Rd north of Easton.
- 4) Denali is proposing to continue using the old bunkers and newly constructed bunkers at the Foster Farm for storage of Class A Biosolids and organic soil conditioners to be used on off-site Foster farms.
- 5) Future land application of Class A Biosolids and organic soil conditioners on the Foster Farm beyond 2022 were undecided at this time. Denali did not commit to whether the organic nutrient sources (biosolids and soil conditioners) would or would not be land applied on the Foster Farm in 2023 or beyond. Land application of organic nutrient sources in the future (if decided) would be incorporated in the soil by conventional tillage (discing). The No-till "Turbo Till" method will never be used if/when-organic soil conditioners or biosolids are land applied at the Foster farm in the future.

The County submitted a Supplemental Staff Report in response to supplemental complaints about midge insects, which complainants believed originated from the Foster Farm. The report did not conclude that the presence of midge insects in the area were directly related to the activities discussed herein.

## 2. Testimony of Complainants

The Board heard testimony from several individuals personally impacted by stockpiling and application of Denali materials at the Foster Farm. A summary of those testimonies follows:

Cheryl Lewis, 4075 Koogler Rd., Trappe, Md. Mrs. Lewis submitted the original complaint in this matter. She has lived in Trappe for 23 years in close proximity to the Foster Farm. She argued that the process of using raw products from processing plants and storing/applying them on farmland is not a normal agricultural process. Farmers are paid to take the materials. Mrs. Lewis believes the practice is a land dumping of waste for profit. Mrs. Lewis testified that the smell was intolerable for most of 2021. The smell cannot be removed from her home, clothes, and hair. She discussed a video sent to her from a friend showing her child choking, holding his throat, and crying. The practice, in sum, violates public health, safety, and welfare.

Michael Burch, 3821 Koogler Rd., Trappe, MD. Mr. Burch and his wife lived in their home for 19 years. They have never experienced offensive odors of this magnitude until September 2021. The smell began after he witnessed it being spread. Describing the smell, he stated "I can only describe it as smelling like rotting meat or death." The smell gave him a headache and affected his sinuses. It later penetrated his home. He, and his wife, have experienced nausea, burning throat, sore eyes, and headache. He asked Denali for a safety data sheet to better understand what he was being exposed to but was not provided with one. When speaking with Chris from Denali, it was explained that they could not disc the field because seeds had already been planted. The smell dissipated in early 2022 after the field was disced.

David Williams, 3599 Brummell Dr., Trappe, MD. The smell from the farm permeates vehicles and is beyond anything he experienced before.

Phil Foster, 4079 Koogler Rd., Trappe, MD. He has lived here all of his life. He testified that the problem with flies and gnats has increased since the odor problem began.

Dory Gallambert. Mrs. Gallambert appeared with her 11 year old son Landon. The family has lived on their property for 21 years and never had issues like this before. She testified that the materials were applied twice in 2021 and the odor lasts approximately two months each time. It has significantly impacted the quality of the family's life and health. It has created nausea, headaches, and dizziness among family members. The children cannot play outside and the odor permeates the home. She is concerned about the long term effects on their health. She is also concerned that product is running off into the nearby Choptank River.

Matt Pluta (Choptank Riverkeeper). Mr. Pluta is a riverkeeper with Shore Rivers. He classifies what is happening on the Foster farm as industrial waste management. In his experience, the Sea Watch product applied on fields in Ridgely, Maryland affected water samples in the stream

down from where it was being stored. He recommended that the State stop accepting seafood waste as a soil amendment and, for anyone who uses it, be required to do so under an individual permit, as opposed to a general permit.

Brittanie Collier, 30720 Taylor Rd., Trappe, MD. Mrs. Collier and her husband have been in Trappe for 15 years. They own and operate a farm across from the Foster farm. The smell from the Foster farm has prohibited the family from doing outdoor activities. Her daughter vomited because of the smell coming off of the school bus. She is concerned about water contamination and contamination of wild game that feed in the field.

Marti Wright, 3745 Koogler Rd., Trappe, MD. She lives across from the Foster farm. She complained that neighbors were not consulted before applying and storing the offensive material. She is concerned about what will be applied in future years and whether they will be notified of that.

Jenny Chance. Mrs. Chance is a mail carrier that delivers mail in the area. The smell and infestation of flies has greatly impacted her ability to work. She has had to vomit during her deliveries. She suffers from lung damage, which exacerbates the problem for her. When she returns home from work, she cannot get the smell off of herself or her clothes.

Alan Gerard (Chesapeake Bay Foundation). Mr. Gerard testified about the regulation of the complained about substances. He testified that there is a failure in reporting and tracking of substances under the nutrient management plan. He testified that the problem on the Foster farm is not isolated and is a problem Statewide.

Eddie Roberts, 3633 Barber Heights Rd., Trappe, MD. His concern is health. He is asthmatic. He has had to forgo family events because the smell could not allow it.

Marty Doty, 30319 Kate Point Rd. When the smell began, she believed her septic system had failed because it smelled like human feces. The smell permeated her home to the point where she had to go to her basement for relief from the smell. She described the smell being worse when the wind was blowing or after it rained.

Lindsey Ryan is an attorney representing Cheryl Lewis. She questioned the Board's jurisdiction over this matter because the farming operation had not continued for one full year prior to receiving the first complaints. She stated that it cannot be confirmed that Sea Watch is the substance that caused the problem. She argued that because the problem violates public health, safety, and welfare, it is not a generally accepted agricultural practice.

Craig Wheaton, 5354 Wellington Dr., Trappe, MD. Mr. Wheaton and his wife have lived in their home since 2006 (about 5 miles away). He considers this an experimental farming technique that's wrong.

Matthew Holt, 3785 Koogler Rd., Trappe, MD. He is a recovering cancer patient. Chemicals can seriously aggravate his condition and has been advised by his oncologist to avoid exposure.

Mary Branic, 30364 Chestnut Ridge Lane. She states that this is not a farm smell. This is toxic. She lives two miles away and it has gotten into her home, lungs, nose, clothes, and cars. She complains that this is not a farming practice because the Fosters are paid to take the materials.

Carl Starliper, 3801 Koogler Rd., Trappe, MD. He is in agreement with other testimony.

Julie Nave, 4567 Wrights Mill Rd. She testified that the prior farm owners never farmed using these methods.

Brenda Brummell, Barber Rd. She is 81 years old and has allergies and asthma. She testified about how the smell has affected her.

### 3. Testimony of Respondents

The Respondents Foster farm, and Denali Water Solutions, were represented by Attorney Mark Spencer Cropper. Mr. Jimmy Mardis appeared on behalf of Denali. Mr. Mardis is the chief environmental officer for Denali. Chris Banks, Denali operations manager for the Mid-Atlantic, also appeared. Finally, Mr. Arthur Foster, Jr. appeared as the farm operator and son of the landowner.

Mr. Banks acknowledged that farmers are paid to store and apply the Denali products. The farmer is paid to buy them out of their cover crop payment that would be paid by the State under the cover crop program. The amount of material that is stored and applied is determined by what the particular field will allow for the crop being planted. The amount is dictated by the farmer's desires and needs.

Mr. Cropper stated that it is the belief of Respondents that the Sea Watch soil conditioner, a clam processing remnant, is the cause of the strong odor that came from the farm after applying the substances in 2021. He noted that neither the Fosters or Denali have been issued any notices of violations from any authority regarding the storage or application of Class A biosolids or soil conditioners that have been applied on the farm.

Mr. Cropper emphasized that it is strongly believed that Sea Watch is the culprit of the odor. As such, the Fosters and Denali have agreed they will no longer store or apply that substance on the Foster farm. Of the remaining two soil conditioners and the Class A biosolids, they will not apply those materials in 2022. Future application of soil conditioners will be disced. There will be no turbo till application.

Mr. Cropper informed the Board that everything that has been applied and stored on the farm has been legally permitted, registered, and approved by necessary government approving authorities. While the activities are lawful, and therefore acceptable practices according to Mr. Cropper, the Respondents hope that the concessions they have agreed to make will be acceptable to their neighbors.

Mr. Mardis testified that Maryland is unique in that it requires storage of material from December 15 to March 1. They are not allowed to land apply material during that time. He testified that odor problems are greatly reduced by quick application and proper injection into the soil. The deeper it is injected into the soil is better for reducing odor.

Mr. Banks testified that a concrete precast structure that was installed on the Foster farm will be utilized for added storage. He explained that the Class A biosolids cannot be stored together with the soil conditioners.

#### 4. Testimony of Experts

Tom Phillips (State of Maryland chemist) answered Board questions. He explained that a soil conditioner means “any substance or mixture, offered for sale, or distributed for, manurial, soil enriching, or soil corrective purposes, promoting or stimulating growth of plants, increasing the productivity of plants, improving the quality of crops, or producing any chemical or physical change in soil except to commercial fertilizer, unmanipulated animal and vegetable manures, agricultural liming material, and gypsum.”

According to Mr. Phillips, the State registers soil conditioners such as the ones registered by Denali for use on the Foster farm. The State considers the chemical contents of the materials. The materials improve soil health, improve the structure, and help crops grow. The smell is a result of decomposing protein and fats, similar to planting fish at the bottom of a tomato plant. Application of the soil conditioners is done once annually.

Mr. Phillips also explained that the popularity of these kinds of soil conditioners is increasing because the price of traditional fertilizers has increased significantly.

Howard Callahan (Maryland Department of Agriculture, Nutrient Management Program) visited the site and reviewed the nutrient management plan. He did not find evidence of any wrongdoing.

Brian Coblenz (Division Chief, Maryland Department of Environment Compliance Division) responded to the question of whether biosolids/soil conditioners have restrictions on storage. He explained that the resource management program of MDE permits the generation of Class A materials. Once approved, farmers are permitted to store and use materials as they see fit. MDE will investigate complaints when materials are stockpiled and not used (for example, over a year).

Dwight Dotterer (Maryland Department of Agriculture, Nutrient Management Program) added that the nutrient management program allows temporary storage of manures, animal manures, Class A biosolids, and stackable materials. He stated that temporary stockpiling is allowed but that MDA will require it to be spread in the spring of the following year. MDA does not look at the structural integrity of storage. It looks to determine whether the storage of materials is overflowing. MDA does not look at permanent storage structures.

Mr. Dotterer also pointed out that the State is considering regulation changes regarding incorporation of materials into soil, potentially requiring deeper tillage and storage of food waste products.

### **FINDINGS OF FACT AND DECISION**

The Board finds that both the application and stockpiling of the following materials during certain times in 2021, on the Foster Farm located at 4084 Smith Mill Rd., Trappe, MD, was a generally accepted agricultural practice:

- Class A Sewage Sludge Bio Solids Soil Amendment Product. MDE issued a utilization permit to Ocean City for the treatment of sewage sludge as specified in MDE's permit.
- DWS Mountairecake – Particles from poultry processing – Registered Soil Conditioner by MDA.
- DWS Sea Watch International – Particles out of wash-down water during processing claims- Registered Soil Conditioner by MDA.
- DWS Valley Protein Cake – Rendering wash & meat trimmings from poultry – Registered Soil Conditioner by -MDA.

The Right to Farm ordinance, § 128-2 defines “Agricultural Land” as agricultural land and all other land that has been used as an agricultural operation continuously for one year. The Board finds that the Foster farm is Agricultural Land under the provision. While Mr. Foster has owned this farm parcel since 2020, he has owned and operated a larger agricultural operation, which includes this farm parcel, for a much longer period of time.

The Board finds that in 2021 Denali entered into an agreement with the owners and operators of the subject property to apply bio solids and soil conditioner products to fields owned by Arthur L. Foster, Sr.

In the Fall of 2021, Denali products were applied and stockpiled on the property. The products that were applied to the soil created what has been described by numerous witnesses as strong and unbearable to the extent it greatly affected the health and enjoyment of nearby residents and individuals who work in the immediate area. The Board finds, based on the testimony and other evidence presented, that the cause of the strong odor is twofold.

First, the Board finds that the product that caused the most offensive odor is the DWS Sea Watch International soil conditioner, which is made up, in part, of processed clams.

Second, the Board finds that the Sea Watch product was applied to the soil using a turbo-till methodology. The turbo-till methodology is considered to be an acceptable method of applying nutrients to soil but, had the application been made by a discing technology, the material would have been applied deeper into the soil, which would have helped reduce the odor.

After these materials were applied to the soil, Denali and the Foster farm stockpiled additional materials on the Foster farm for the purpose of applying those materials to the soil in 2022.

The application and stockpiling of bio solids and soil conditioners is not unique to the Foster Farm. It is a practice that will continue to expand. The price of fertilizers is becoming more expensive for local farmers. The kinds of products utilized by Denali on local farms is an attractive, economically beneficial alternative.

The Board is sympathetic to the concerns of the complainants. It does not take lightly that there are numerous individuals who suffered, for months, by the application of the Sea Watch product. The general health of many individuals was impacted. The smell of the product infiltrated people's homes, cars, and clothes. There is no doubt that these same individuals could not enjoy the outdoors while the smell was lingering. While there is no concrete evidence that the materials are linked to an increase in midge insects in the area, the anecdotal witness testimony suggests that there may have been a connection.

Denali and the Foster Farm have conceded that the Sea Watch product was particularly noxious and that deeper tilling would generally alleviate strong odors from nutrient applications in the future. They have agreed to not use the Sea Watch product on the Foster farm in the future and also to utilize discing methodology when applying substances of this nature. In this respect, the Board is satisfied that this process has resulted in steps being taken to resolve the dispute between the Foster Farm and its neighbors.

Furthermore, the Fosters have approached the Talbot County Soil Conservation District for assistance in developing better storage/stockpiling solutions. The District is working to assist with surveying the drainage area and taking actions to improve stockpiling of material, including the addition of a roof on concrete bunkers and the creation of diversions to avert clean water from the stockpiling area. If, and to the extent there is seepage of materials into clean water sources, the Board recommends reporting that pollution to proper State authorities.

While the Board believes that these steps will be beneficial in alleviating strong odors in the future, the Board has not found evidence to conclude that application and stockpiling of materials on the Foster Farm were not agriculturally acceptable methods at the time they were employed. The practices employed were in compliance with MDA's nutrient management program.

The materials were incorporated with a turbo till methodology, which is considered a best management practice. The purpose of the turbo tilling was to leave as much ground cover as possible on the ground and not cause less disturbance to the soil. The application of materials was performed within State guidelines. Turbo till technology has been promoted by MDA as a best management tool.

It is also the experience of this Board that the stockpiling of nutrients is common and acceptable practice. Under current regulations, materials must be stored, and not applied, during certain months of the year. Traditionally, the stockpiling of nutrients was from materials that were

generated on the farm itself. Farmers have also traditionally imported materials, such as poultry manure, for the purpose of stockpiling and later applying those nutrients. In short, the materials have to go somewhere when the regulations prohibit their application into the soil.

It is the understanding of this Board that nutrient application regulations will be amended by regulation beginning January 2023. The new regulations will specifically amend guidelines for applying and stockpiling "Food Processing Residual" materials, which are what is at issue in this matter. The new regulations will specify, in greater detail, when materials can be applied, when they must be stored, and how they must be tilled/incorporated into the soil. These new regulations will provide better guidance, in the future, as to whether the application or stockpiling of a material is a generally accepted agricultural practice.

**RECOMMENDATIONS**

Pursuant to this resolution process, the Foster farm and Denali have acknowledged that the application of Sea Watch soil conditioner caused a noxious odor that impacted its immediate neighbors in a harmful way. As such, the Fosters and Denali have agreed they will no longer store or apply that substance on the Foster farm. Further, this resolution process has also reached consensus among the parties, Board members, and experts, that odor from the application of these kind of food processing residuals are application of soil conditioners is diminished when disced, as opposed to applied by turbo till application. Therefore, the Foster Farm and Denali have also agreed that there will be no turbo till application of these materials. The Board makes the following recommendations, which we adopt, in part, by concessions made by the Foster farm and Denali throughout this process.

1. The Sea Watch soil conditioner should no longer be accepted at the Foster Farm or any other farm operated by Denali in Talbot County.
2. The Foster Farm and Denali should continue to work in coordination with the Talbot County Conservation District for best practices to store/stockpile Class A Biosolids and organic soil conditioners.
3. The No-till "Turbo Till" method should not be used if/when-organic soil conditioners or biosolids are land applied at the Foster farm in the future.

**IT IS THEREFORE**, this 14th day of December, 2022, **RESOLVED** that the Respondent's agricultural operations were conducted in a manner consistent with generally accepted agricultural practices.

Voting Yes on the issue of whether the stockpiling of materials described herein is generally accepted agricultural practice.

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 Travis Hutchison, Chairman

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 Lewis H. Smith, Jr.

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Robert Greenlee

Voting Yes on the issue of whether the application of materials described herein is a generally accepted agricultural practice.

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*Travis Hutchison*  
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Travis Hutchison, Chairman

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Lewis H. Smith, Jr.

**DISSENTING OPINION**

If the question of whether a practice is a generally accepted practice, the measurement should weigh the outcomes of the practice. In this instance, the outcome resulted in a stench, and possibly increase in insects, that are out of bounds. Therefore, from this perspective, it cannot be stated that the application of the Sea Watch product on the Foster farm was a generally acceptable agricultural practice.

Voting No on the issue of whether the stockpiling of application of materials described herein is a generally accepted agricultural practice.

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